S.B. CIVIL WRIT PETITION NO.3923/2003
Smt. Sita Devi Vs. State of Rajasthan & ors.

Date : 11.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Ranjeet Joshi, for the petitioner.

Mrs. R.R. Kanwar, Dy. GA) for the respondents.
Mr. Sunil Mehta)

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Heard learned counsel for the parties.

The petitioner is aggrieved against the inaction of the State Government as according to the petitioner, the State Government was under obligation to inquire into the complaint submitted by the petitioner against disqualification of the respondent no.5 on the ground that he gave birth to a child after the cut off date i.e. 27.11.1995 and before that date, he had two or more than two children.

According to learned counsel for petitioner, the State Government, without there being any reason, did not act upon the complaint despite the fact that the State Government in large number of cases held enquiry. According to learned counsel for the petitioner, because of the political reasons only, the State Government is choosing the elected persons for holding enquiry and declaring the candidates disqualified who are not suitable to the Government and thereby the State Government is abusing the

powers given under Section 38 of the Rajasthan Panchayati Raj Act, 1994 (for short “the Act”) by either initiating the enquiry or not initiating the enquiry.

The writ petition was filed by the petitioner as back as in the year 2003. During this period, the Panchayat Elections were held in January, 2005. Since no relief can be granted now, so far as the earlier election of the respondent no.5 is concerned, therefore, this writ petition has become infructuous and accordingly, the same is dismissed.

However, the petitioner may submit his detailed representation before the State Government, in case, the respondent no.5 is a candidate and elected again. The State Government may consider the case of allegations of the petitioner against the respondent no.5 and may decide whether to hold any enquiry against the respondent no.5 or not by a brief reasoned order so that the State Government may clear its position with respect to the allegations about choosing the elected persons against whom the State Government is proceeding.

(PRAKASH TATIA), J.

S.Phophaliya